

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

IN RE:)
)
MARK POWERS & COMPANY, INC.,) **BANKRUPTCY CASE NO:**
) **21-40264-JJR-7**
)
Debtor.)
)
ROCCO J. LEO, TRUSTEE,)
)
Plaintiff.) **ADVERSARY PROCEEDING NO.:**
)
vs.)
)
FC BUSINESS CAPITAL,)
SOUTHEASTERN COMMERCIAL)
FINANCE, LLC,)
CHTD COMPANY,)
ON DECK CAPITAL, INC.,)
)
Defendants.)

COMPLAINT

COMES NOW, Rocco J. Leo ("Trustee"), Trustee of the above estate and for his Complaint against the above-named defendants would show this Court as follows:

1. Plaintiff is the duly qualified and acting Trustee of the estate of the above-named Debtor.
2. This Adversary Proceeding is for determination of rights as regards the bankruptcy case of Mark Powers & Company, Inc., being case #21-40264-JJR-7 on the docket of this Court.
3. This Court has jurisdiction over this Adversary Proceeding pursuant to 28 U.S.C. § 157, 1334 and 11 U.S.C. §§ 547 and 548. This is a core proceeding under 28 U.S.C. § 157(b)(2)(E)(F) & (H).

4. This bankruptcy case was initiated by a voluntary petition filed on March 15, 2021.
5. Rocco J. Leo is the duly authorized and acting trustee of the above debtor.
6. FC Business Capital is a financing company with a filed UCC as regards the debtor.
7. Southeastern Commercial Finance, LLC, is a financing company with a filed UCC as regards the debtor.
8. CHTD Company is a financing company with a filed UCC as regards the debtor.
9. On Deck Capital, Inc., is a financing company that claims to have a UCC against the debtor.

FACTS

10. The debtor filed this case on March 15, 2021, in the United States Bankruptcy Court for the Northern District of Alabama and was assigned case #21-40264.
11. Rocco J. Leo was appointed the trustee of this bankruptcy case and currently serves as the trustee of this case ("Leo").
12. The debtor's schedules list no secured debt.
13. Leo has liquidated the assets of the debtor.
14. The following defendants had filed UCC's pending at the time of the filing of this case. A copy of the UCC search is attached as Exhibit A.

FC Business Capital
201 St. Charles Avenue
Suite 2409
New Orleans, LA 70170

Southeastern Commercial
Finance, LLC
P. O. Box 11063
Birmingham, AL 35202-1063

CHTD Company
P. O. Box 2576
Springfield, IL 62708

15. Defendant, On Deck Capital, Inc., filed two proof of claims in this case, claims #25 and #26, purporting to be an unsecured creditor of the debtor.
16. On Deck Capital, Inc., now claims that the UCC filed by the defendant, CHTD Company, was filed on their behalf ("CHTD UCC").
17. The CHTD UCC was filed on January 27, 2018.
18. As evidenced by the attachments to the claims of On Deck Capital, Inc., the first alleged debt from the debtor to On Deck Capital, Inc., occurred on January 29, 2018.
19. Leo is desirous of determining the correct distributions, after deduction of administrative expenses of the proceeds from the liquidation of assets of this state.

COUNT ONE

20. Plaintiff incorporates each and every allegation contained in paragraphs one (1) through nineteen (19) above as if fully set out herein.
21. Leo requests a declaratory judgment from this Court of the priority of the defendants to proceeds of this estate.
22. Leo further requests a declaratory judgment as to the amount, if any, due the defendants as secured creditors of this estate.

WHEREFORE, Premises Considered, Leo prays that this Court will enter an order detailing the amount (if any) and priority of the defendants to the assets of this estate. Leo prays for such further and additional relief to which he may be entitled.

Respectfully submitted,

/s/William Dennis Schilling
William Dennis Schilling
Attorney for Trustee

OF COUNSEL:

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Serve Defendants at:

FC Business Capital
Attn President
201 St. Charles Avenue
Suite 2409
New Orleans, LA 70170

Southeastern Commercial Finance, LLC
Attn: Pat Trammel, Member
P. O. Box 11063
Birmingham, AL 35202-1063

CHTD Company
Attn: President
P. O. Box 2576
Springfield, IL 62708

On Deck Capital, Inc.
Attn: President
1400 Broadway FL 25
New York, NY 10018